

H. R. 2864

To reduce costs and make improvements in the Medicare Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1987

Mr. DUNCAN introduced the following bill; which was referred jointly to the
Committees on Ways and Means and Energy and Commerce

A BILL

To reduce costs and make improvements in the Medicare Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE, REFERENCES IN ACT, AND TABLE OF
4 CONTENTS

5 SECTION 1. (a) This Act may be cited as the “Medicare
6 Amendments of 1987”.

7 (b) The amendments in this Act apply to the Social Se-
8 curity Act unless otherwise specifically stated.

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1 TITLE I—BENEFITS AND COST SHARING

2 SUPPLEMENTARY MEDICAL INSURANCE DEDUCTIBLE

3 SEC. 101. (a) The matter in the first sentence of section
4 1833(b) (42 U.S.C. 13951(b)) preceding clause (1) is amend-
5 ed by striking out “of \$75” and inserting instead “equal to
6 \$75 increased (or decreased) by the percentage increase (or
7 decrease) of an index (as determined by the Secretary), based
8 on appropriate economic index data (as stated in the fourth
9 sentence of section 1842(b)(3)) from 1986 to the year preced-
10 ing such calendar year and (if not a multiple of \$1) rounded
11 to the nearest multiple of \$1 (or, if midway between two
12 multiples, the next higher)”.

13 (b) The amendment made by subsection (a) applies to
14 expenses incurred during 1988 and later years.

15 SUPPLEMENTARY MEDICAL INSURANCE PREMIUM

16 SEC. 102. (a)(1) Section 1839(a)(2), (42 U.S.C.
17 1395r(a)(2)) is amended by striking out “(e)” and inserting
18 instead “(c)”.

1 (2) Section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) is
2 amended—

3 (A) in the first sentence, by striking out “pre-
4 mium” and inserting instead “premiums”, and

5 (B) by revising the second sentence to read as fol-
6 lows: “The monthly premium shall be equal to the
7 monthly actuarial rate for enrollees age 65 and over,
8 determined according to paragraph (1) of this section,
9 for that calendar year, (A) for each enrollee for whom
10 the monthly premium is paid under a State plan ap-
11 proved under title XIX or under a group health plan
12 (as defined in section 162(i)(3) of the Internal Revenue
13 Code of 1986), (B) multiplied by 0.5 for every other
14 enrollee who was entitled at any time before 1988 to
15 benefits under the insurance program established by
16 this part, and (C) multiplied by 0.7 for every other
17 enrollee.”.

18 (3) The first sentence of section 1839(b) (42 U.S.C.
19 1395r(b)) is amended by striking out “or (e)”.

20 (4) Section 1839(c) (42 U.S.C. 1395r(c)) is amended by
21 inserting “(or, if midway between two multiples, the next
22 higher)” before the period.

23 (5) Subsections (e) and (f) of section 1839 (42 U.S.C.
24 1395r) are repealed.

1 (b) Sections 1844(a)(1)(A)(i) and 1844(a)(1)(B)(i) (42
2 U.S.C. 1395w(a)(1)(A)(i) and 1395w(a)(1)(B)(i)) are each
3 amended by striking out “1839(a)(3) or 1839(e), as the case
4 may be” and inserting instead “1839”.

5 (c) The amendments made by the preceding subsections
6 apply to premiums for years after 1987.

7 DISCOUNTING OF INPATIENT HOSPITAL DEDUCTIBLE

8 SEC. 103. (a) Section 1877(b)(3) (42 U.S.C.
9 1395nn(b)(3)) is amended—

10 (1) by striking out “and” at the end of subpara-
11 graph (B),

12 (2) by substituting “; and” for the period at the
13 end of subparagraph (C), and

14 (3) by adding at the end the following:

15 “(D) any hospital’s discounting or waiver of the
16 inpatient hospital deductible that meets the require-
17 ments of paragraph (4).”.

18 (b) Section 1877(b) (42 U.S.C. 1395nn(b)) is further
19 amended by adding at the end the following:

20 “(4) The exception under paragraph (3)(D) shall apply
21 only if—

22 “(A) the hospital has informed the organization
23 that makes payments to the hospital under section
24 1816 of the hospital’s proposed discounts or waivers
25 (and of any changes in these), and

“(B) for a ‘subsection (d) hospital’ (as defined in section 1886(d)(1)(B)), the same discount (or waiver) is applied to all admissions that the hospital expects to be classified under a particular diagnosis-related group, and is not subsequently changed for a particular admission even if the admission is classified under a different diagnosis-related group.”.

8 PLANS OF MEDIUM-SIZED EMPLOYERS AS PRIMARY
9 PAYERS FOR THE DISABLED

10 SEC. 104. (a) Section 5000(b) of the Internal Revenue
11 Code of 1986 is amended by striking out “100” and inserting
12 instead “20”.

(b) The amendment made by subsection (a) applies (1) to items and services furnished after September 1987, (2) to enrollments in the insurance program established by part B of title XVIII of the Social Security Act that occur after that month, and (3) for purposes of the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) of that Act, to months after that month.

20 ELIMINATION OF SEPARATE OCCUPATIONAL THERAPY
21 BENEFIT

SEC. 105. (a) Section 1832(a)(2)(C) (42 U.S.C.
1395k(a)(2)(C)) is amended by striking out “and outpatient
occupational therapy services (other than services to which
such sentence applies through the operation of section
1861(g))”.

1 (b) Section 1833(g) (42 U.S.C. 13951(g)) is amended by
2 striking out the second sentence.

3 (c) Section 1835(a)(2)(C) (42 U.S.C. 1395n(a)(2)(C)) is
4 amended—

5 (1) in the matter preceding clause (i), by striking
6 out “or outpatient occupational therapy services”,

7 (2) in clause (i), by striking out “or occupational
8 therapy services, respectively,”, and

9 (3) in clause (ii), by striking out “or qualified oc-
10 cupational therapist, respectively,”.

11 (d) Section 1866(e) (42 U.S.C. 1395cc(e)) and the
12 second sentence of section 1835(a) (42 U.S.C. 1395n(a)) are
13 each amended—

14 (1) by striking out “(or meets the requirements of
15 such section through the operation of section 1861(g))”
16 each place it occurs, and

17 (2) by striking out “or (through the operation of
18 section 1861(g)) with respect to the furnishing of out-
19 patient occupational therapy services”.

20 (e) Section 1861(g) (42 U.S.C. 1395x(g)) is repealed.

21 (f) Section 1861(s)(2)(D) (42 U.S.C. 1395x(s)(2)(D)) is
22 amended by striking out “and outpatient occupational ther-
23 apy services”.

1 (g) Section 1861(v)(5)(A) (42 U.S.C. 1395x(v)(5)(A)) is
 2 amended by striking out “(including through the operation of
 3 section 1861(g))”.

4 (h) The amendments made by the preceding subsections
 5 apply to services furnished after the first full month beginning
 6 after the date of enactment of this Act.

7 RESTRICTION ON OPTOMETRISTS’ SERVICES

8 SEC. 106. (a) Section 1861(r)(4) (42 U.S.C. 1395x(r)(4))
 9 is amended to read as follows: “(4) a doctor of optometry
 10 who is legally authorized to practice optometry by the State
 11 in which he performs such function, but only with respect to
 12 services related to the condition of aphakia, or”.

13 (b) The amendment made by subsection (a) applies to
 14 services furnished after the first full month beginning after
 15 the date of enactment of this Act.

16 TITLE II—ELIGIBILITY

17 FIRST FULL MONTH OF MEDICARE ELIGIBILITY

18 SEC. 201. (a)(1) Subsections (a)(1), (b)(1), (c)(1)(B)(i),
 19 and (e) of section 226 (42 U.S.C. 426), section 1818(a)(1) (42
 20 U.S.C. 1395i-2(a)(1)), section 1836(2) (42 U.S.C. 1395o(2)),
 21 subsections (c), (d), (g)(1), and (i) of section 1837 (42 U.S.C.
 22 1395p), section 1838(c) (42 U.S.C. 1395q(c)), subsections (b)
 23 and (d) of section 1839 (42 U.S.C. 1395r), and section
 24 1876(a)(5) (42 U.S.C. 1395mm(a)(5)) are each amended by
 25 inserting “and one month” after “65” each place it occurs.

1 (2) The first sentence of section 226(b) (42 U.S.C.
2 426(b)) is amended by striking out “before the month” in the
3 matter following paragraph (2).

4 (3) Section 226(e)(1) (42 U.S.C. 426(e)(1)) is
5 amended—

6 (A) by striking out “and” at the end of subpara-
7 graph (A),

8 (B) by substituting a semicolon for the period at
9 the end of subparagraph (B), and

10 (C) by adding at the end the following:

11 “(C) section 202(e)(1)(C)(i) and section
12 202(f)(1)(C)(i) shall each be deemed to be amended by
13 striking out ‘and (I) has attained retirement age (as de-
14 fined in section 216(l)) or (II) is not entitled to benefits
15 under subsection (a) or section 223,’;

16 “(D) section 202(e)(1)(D) and section (f)(1)(D)
17 shall each be deemed to be repealed;

18 “(E) the matter in the first sentence of section
19 202(e)(1) following paragraph (F) shall be deemed to be
20 amended—

21 “(i) by striking out ‘becomes entitled to an
22 old-age insurance benefit equal to or exceeding
23 the primary insurance amount (as determined
24 after application of subparagraphs (B) and (C) of
25 paragraph (2)) of such deceased individual,’ and

1 “(ii) by striking out ‘retirement age (as de-
2 fined in section 216(l))’ and inserting instead ‘age
3 65 and one month’; and

4 “(F) the matter in the first sentence of section
5 202(f)(1) following paragraph (F) shall be deemed to be
6 amended—

7 “(i) by striking out ‘or becomes entitled to an
8 old-age insurance benefit equal to or exceeding
9 the primary insurance amount (as determined
10 after application of subparagraphs (B) and (C) of
11 paragraph (3)), of such deceased individual,’ and

12 “(ii) by striking out ‘retirement age (as de-
13 fined in section 216(l))’ and inserting instead ‘age
14 65 and one month’.”.

15 (4) Section 226(e) (42 U.S.C. 426(e)) is amended by
16 adding at the end the following:

17 “(5) For purposes of determining entitlement to hospital
18 insurance benefits under subsection (b) in the case of an indi-
19 vidual described in paragraph (2)(A)(i) of that subsection, ‘the
20 retirement age (as defined in section 216(l))’ in section
21 223(a)(1)(B) shall be deemed to read ‘age 65 and one month’
22 and ‘retirement age (as defined in section 216(l))’ in the
23 matter following paragraph (D) in the first sentence of section
24 223(a)(1) shall be deemed to read ‘age 65 and one month’.

1 “(6) For purposes of determining entitlement to hospital
 2 insurance benefits under subsection (a) or (b) in the case of an
 3 individual who is a qualified railroad retirement beneficiary,
 4 section 7(d)(2) of the Railroad Retirement Act of 1974 (45
 5 U.S.C. 231f(d)(2)) shall be deemed to be amended by insert-
 6 ing ‘and one month’ after ‘age 65’ each place it occurs.”.

7 (5) Section 1839(d) (42 U.S.C. 1395h(d)) is amended by
 8 striking out “preceding the month”.

9 (b) The amendments made by the preceding subsection
 10 apply to individuals who attain age 65 after September 1987.

11 ELIGIBILITY OF CERTAIN ALIENS FOR MEDICARE

12 BENEFITS

13 SEC. 202. (a) Section 1818(a) (42 U.S.C. 1395i-2(a)) is
 14 amended—

15 (1) by adding “and” at the end of paragraph (2),

16 (2) by striking out paragraph (3), and

17 (3) by renumbering paragraph (4) as (3).

18 (b) Section 1836(2)(B) (42 U.S.C. 1395o(2)(B)) is
 19 amended to read as follows: “(B) an alien lawfully admitted
 20 for permanent residence or otherwise permanently residing in
 21 the United States under color of law,”.

22 (c) Section 1837 (42 U.S.C. 1395p) is amended by
 23 adding at the end the following:

24 “(j) In the case of an individual who, as an alien, has
 25 been eligible to enroll in the insurance program established
 26 by this part but who has neither been entitled to hospital

1 insurance benefits under part A, nor has resided in the
2 United States continuously for five years and been lawfully
3 admitted for permanent residence, there shall be a special
4 enrollment period beginning with the first day of the third
5 month before the month in which the individual first (1) is
6 entitled to hospital insurance benefits under part A, (2) has
7 resided in the United States continuously for five years and is
8 lawfully admitted for permanent residence, or (3) is a citizen,
9 and ending seven months later.”.

10 (d)(1) Section 1838(a)(2)(A) (42 U.S.C. 1359q(a)(2)(A))
11 is amended to read as follows:

12 “(2)(A) in the case of an individual who enrolls
13 pursuant to subsection (d) or (j) of section 1837 before
14 the month in which he first satisfies paragraph (1) or
15 (2) of section 1836, or clause (1), (2), or (3) of section
16 1837(j), respectively, the first day of such month, or”.

17 (2) Subparagraphs (B) through (D) of section 1838(a)(2)
18 (42 U.S.C. 1395q(a)(2)) are each amended by inserting “or
19 (j)” after “subsection (d)” and “or clause” after “such
20 paragraph”.

21 (e)(1) Section 1839(a)(2) (42 U.S.C. 1395r(a)(2)) (as
22 amended by section 102(a)(1) of this Act) is further amended
23 by striking out “and (c)” and inserting instead “, (c),
24 and (e)”.

1 (2) The matter in the second sentence of section 1839(b)
2 (42 U.S.C. 1395r(b)) following clause (2) is amended—

3 (A) by striking out “or months” and inserting in-
4 stead “, months”, and

5 (B) by inserting before the period the following:
6 “, or months in which the individual has not satisfied
7 clause (1), (2), or (3) of section 1837(j)”.

8 (3) Section 1839(c) (42 U.S.C. 1395r(c)) is amended by
9 striking out “the foregoing” and inserting instead “other sub-
10 sections”.

11 (4) Section 1839 (42 U.S.C. 1395r) (as amended by sec-
12 tion 102 of this Act) is further amended by adding at the end
13 the following:

14 “(e) The monthly premium for each individual enrolled
15 under this part for a month in which the individual has not
16 satisfied clause (1), (2), or (3) of section 1837(j) shall be an
17 amount equal to twice the actuarial rate for enrollees age 65
18 and older as determined under subsection (a)(1) and applica-
19 ble to that month.”.

20 (f) The amendments made by the preceding subsection
21 are effective at the beginning of the third month beginning
22 after the date of enactment of this Act.

23 (g) In the case of an individual—

24 (1) who satisfies section 1836 of the Social Secu-
25 rity Act (42 U.S.C. 1395o) (as amended by subsection

1 (b) of this subsection) in the third, fourth, or fifth
2 month beginning after the date of enactment of this
3 Act, and

4 (2) who would not satisfy that section in that
5 month as that section was in effect before its amend-
6 ment by subsection (b) of this section,

7 there shall be a special period for enrollment in the insurance
8 program established by part B of title XVIII of the Social
9 Security Act and in the insurance program established by
10 part A of that title under section 1818 of that Act (42 U.S.C.
11 1395i-2), beginning with the first day of the second month
12 beginning after the date of enactment of this Act and ending
13 seven months later. For an individual who so enrolls, the
14 period during which he is entitled to benefits shall begin on
15 the later of the first day of the month after the month in
16 which he enrolls and the first day of a month in which he
17 satisfies section 1836 of that Act (42 U.S.C. 1395o).

18 COVERAGE OF ALL STATE AND LOCAL GOVERNMENT

19 EMPLOYEES

20 SEC. 203. (a) Section 3121(u)(2) of the Internal
21 Revenue Code of 1986 is amended—

22 (1) in subparagraph (A), by striking out “subpara-
23 graphs (B) and (C)” and inserting instead “subpara-
24 graph (B)”, and

25 (2) by striking out subparagraphs (C) and (D).

26 (b) Section 210(p) (42 U.S.C. 410(p)) is amended—

1 (1) in paragraph (1)(B), by striking out “para-
2 graphs (2) and (3)” and inserting instead “paragraph
3 (2)”, and

4 (2) by striking out subparagraphs (3) and (4).

5 (c) Section 218 (42 U.S.C. 418) is amended by striking
6 out subsections (v) and (w).

7 (d)(1) The amendments made by subsection (a) apply to
8 remuneration paid after 1987.

9 (2) The amendments made by subsections (b) and (c) are
10 effective as of January 1, 1988 (and, except as provided in
11 paragraph (3), the amendments made by subsection (b) apply
12 only to employment for which remuneration is paid after
13 1987).

14 (3) If any portion of an individual’s employment during
15 January 1988 is medicare qualified government employment
16 (as defined in section 210(p) of the Social Security Act (42
17 U.S.C. 410(p)) as amended by subsection (b) of this section),
18 then the amendments made by subsection (b) of this section
19 apply to all periods (if any) of that individual’s medicare
20 qualified government employment (as so defined) before
21 1988.

22 (4) For purposes of establishing entitlement to hospital
23 insurance benefits under part A of title XVIII of the Social
24 Security Act pursuant to the amendments made by subsec-

1 tion (b), no individual may be considered to be under a dis-
2 ability for any period before 1988.

3 (e) Section 278(d)(3)(A) of the Tax Equity and Fiscal
4 Responsibility Act of 1982 (42 U.S.C. 426 nt) is amended by
5 inserting “or of section 203(d)(3) of the Medicare Amend-
6 ments of 1987”.

7 TITLE III—REIMBURSEMENT

8 PROSPECTIVE PAYMENT SYSTEM UPDATE FACTOR

9 SEC. 301. (a) Section 1886(b)(3) (42 U.S.C.
10 1395ww(b)(3)) is amended to read as follows:

11 “(3) For purposes of this subsection, the term ‘target
12 amount’ means, with respect to a hospital for a particu-
13 lar 12-month cost reporting period—

14 “(A) in the case of the first such reporting period
15 for which this subsection is in effect, the allowable op-
16 erating costs of inpatient hospital services (as defined
17 in subsection (a)(4)) recognized under this title for such
18 hospital for the preceding 12-month cost reporting
19 period, and

20 “(B) in the case of a later reporting period, the
21 target amount for the preceding 12-month cost report-
22 ing period,
23 increased by the applicable percentage increase determined
24 by the Secretary pursuant to subsection (e)(4).”.

1 (b) Section 1886(d)(2)(B)(ii) (42 U.S.C.
2 1395ww(d)(2)(B)(ii)) is amended by striking out “(as defined
3 in subsection (b)(3)(B))”.

4 (c) The first sentence of section 1886(d)(3)(A) (42
5 U.S.C. 1395ww(d)(3)(A)) is amended by striking out “in-
6 creased for each of the fiscal years 1985, 1986, 1987, and
7 1988 by the applicable percentage increase under subsection
8 (b)(3)(B), and adjusted for subsequent fiscal years” and insert-
9 ing instead “adjusted for each fiscal year”.

10 (d) Section 1886(d)(9)(B)(i) (42 U.S.C.
11 1395ww(d)(9)(B)(i)) is amended by striking out “(as defined in
12 subsection (b)(3)(B))” and inserting instead “(as determined
13 by the Secretary pursuant to subsection (e)(4))”.

14 (e) Section 1886(d)(9)(C)(i) (42 U.S.C.
15 1395ww(d)(9)(C)(i)) is amended by striking out “increased for
16 fiscal year 1989 by the applicable percentage increase under
17 subsection (b)(3)(B), and adjusted for subsequent fiscal years”
18 and inserting instead “adjusted for each fiscal year”.

19 (f) The matter in section 1886(e)(1)(A) (42 U.S.C.
20 1395ww(e)(1)(A)) preceding clause (i) is amended by striking
21 out “(otherwise applicable to the periods under subsection
22 (b)(3)(B))” and inserting instead “otherwise applicable”.

23 (g) Section 1886(e)(2) (42 U.S.C. 1395ww(e)(2)) is
24 amended—

1 (1) in the second sentence, by striking out
2 “review the applicable percentage increase factor de-
3 scribed in subsection (b)(3)(B) and”, and

4 (2) in the third sentence, by striking out
5 “described in subsection (b)(3)(B)”.

6 (h) Section 1886(e)(3)(B) (42 U.S.C. 1395ww(e)(3)(B))
7 is amended by striking out “recommend or”.

8 (i) The first sentence of section 1886(e)(4) (42 U.S.C.
9 1395ww(e)(4)) is amended—

10 (1) by striking out “shall recommend for fiscal
11 year 1988 an appropriate change factor for inpatient
12 hospital services for discharges in that fiscal year and
13 shall determine for each subsequent” and inserting in-
14 stead “shall determine for each”, and

15 (2) by striking out “(otherwise described in sub-
16 section (b)(3)(B))”.

17 (j) Section 1886(e)(5) (42 U.S.C. 1395ww(e)(5)) is
18 amended by striking out “recommendation or” each place it
19 occurs.

20 (k) The amendments made by the preceding subsections
21 apply to cost reporting periods beginning after, and dis-
22 charges occurring after, fiscal year 1987.

23 DIRECTOR COSTS OF MEDICAL EDUCATION

24 SEC. 302. (a) The heading to section 1886(h) (42
25 U.S.C. 1395ww(h)) is amended by striking out “Graduate”.

1 (b) Section 1886(h)(1) (42 U.S.C. 1395ww(h)(1)) is
2 amended by striking out “graduate” each place it occurs.

3 (c) Section 1886(h)(2) (42 U.S.C. 1395ww(h)(2)) is
4 amended to read as follows:

5 “(2) DETERMINATION OF HOSPITAL-SPECIFIC AP-
6 PROVED FTE RESIDENT AMOUNTS.—The Secretary shall
7 determine, for each hospital with an approved medical resi-
8 dency training program, an approved FTE resident amount
9 for each cost reporting period beginning after June 1987 as
10 follows:

11 “(A) DETERMINING ALLOWABLE AVERAGE COST
12 PER RESIDENT IN A HOSPITAL’S BASE PERIOD.—The
13 Secretary shall determine for the hospital’s first cost
14 reporting period that began after June 1985 the aver-
15 age amount recognized as reasonable under this title
16 for the salary and fringe benefits for each full-time-
17 equivalent resident.

18 “(B) AMOUNT FOR THE FIRST COST REPORTING
19 PERIOD BEGINNING AFTER JUNE 1987.—For the first
20 cost reporting period of the hospital beginning after
21 June 1987, the approved FTE resident amount for the
22 hospital if equal to the amount determined under para-
23 graph (A) updated, through the midpoint of the period,
24 by the percentage change in the consumer price index
25 during the 24-month period ending at that midpoint.

1 “(C) AMOUNT FOR SUBSEQUENT COST REPORT-
2 ING PERIODS.—For each subsequent cost reporting
3 period, the approved FTE resident amount for the hos-
4 pital is equal to that amount for the previous cost re-
5 porting period updated, through the midpoint for the
6 new period, by the percentage change in the consumer
7 price index during the 12-month period ending at that
8 midpoint.

9 “(D) TREATMENT OF CERTAIN HOSPITALS.—In
10 the case of a hospital that did not have an approved
11 medical residency training program or was not partici-
12 pating in the program under this title for a cost report-
13 ing period beginning after June 1985 but before July
14 1986, the Secretary shall, for the first such period for
15 which it has such a residency training program and is
16 participating under this title, provide for such approved
17 FTE resident amount as the Secretary determines to
18 be appropriate, based on approved FTE resident
19 amounts for comparable programs.”.

20 (d) The matter in section 1886(h)(3)(A) (42 U.S.C.
21 1395ww(e)(3)(A)) preceding clause (i) is amended by striking
22 out “, for a hospital cost reporting period beginning on or
23 after July 1, 1985,” and inserting instead “for a hospital cost
24 reporting period”.

1 (e) Subparagraphs (C) and (D) of section 1886(h)(4) (42
2 U.S.C. 1395ww(h)(4)) are amended to read as follows:

3 “(C) WEIGHTING FACTOR FOR CERTAIN RESI-
4 DENTS.—Subject to paragraph (E), such rules shall
5 provide, in calculating the number of full-time-equiva-
6 lent residents in an approved residency program—

7 “(i) that the weighting factor for a resident
8 who is in the resident’s initial residency period (as
9 defined in paragraph (5)(F)) is 1.00, and

10 “(ii) that the weighting factor for a resident
11 who is not in the resident’s initial residency period
12 (as defined in paragraph (5)(F)) is .50.

13 “(D) FOREIGN MEDICAL GRADUATES REQUIRED
14 TO PASS FMGEMS EXAMINATION.—Such rules shall
15 provide that, in the case of an individual who is a for-
16 eign medical graduate (as defined in paragraph (5)(D)),
17 the individual shall not be counted as a resident
18 unless—

19 “(i) the individual has passed the FMGEMS
20 examination (as defined in paragraph (5)(E)), or

21 “(ii) the individual has, before July 1986, re-
22 ceived certification from, or passed the examina-
23 tion of, the Educational Commission for Foreign
24 Medical Graduates.”.

1 (f) Section 1886(h)(5)(C) (42 U.S.C. 1395x(h)(5)(C)) is
2 amended—

3 (1) by striking out “graduate”,

4 (2) by striking out “for approved medical resi-
5 dency training programs”, and

6 (3) in the heading, by striking out “Graduate”.

7 (g) Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is
8 amended—

9 (1) by striking out subparagraph (Q), and

10 (2) by redesignating subparagraph (R) as (Q).

11 (h) The amendments made by the preceding subsections
12 apply to cost reporting periods beginning after June 1987.

13 INDIRECT COSTS OF MEDICAL EDUCATION

14 SEC. 303. (a) Section 1886(d)(5)(B)(ii) (42 U.S.C.
15 1395ww(d)(5)(ii)) is amended—

16 (1) in subclause (I), by striking out “1989” and
17 inserting instead “1987”, and

18 (2) in subclause (II), by striking out “1989, is
19 equal to $1.5X((1+r)^{.5795}-1)$ ” and inserting instead
20 “1987, is equal to $((1+r)^{.405}-1)$ ”.

21 (b) Section 1886(d)(2)(C)(i) (42 U.S.C.
22 1395ww(d)(2)(C)(i)) is amended by inserting “and by section
23 303(a) of the Medicare Amendments of 1987” after “1985”.

24 (c) Section 1886(d)(3)(C)(ii) (42 U.S.C.
25 1395ww(d)(3)(C)(ii)) is amended—

1 (1) in subclause (I), by (A) striking out “1989”
 2 and inserting instead “1987” and (B) striking out “de-
 3 scribed in clause (ii)(II) of paragraph (5)(B)” and in-
 4 serting instead “ $1.5X((1+r)^{5795}-1)$ ”, and

5 (2) in subclause (II), by (A) striking out “1989”
 6 and inserting instead “1987” and (B) striking out
 7 “9104 of the Medicare and Medicaid Budget Amend-
 8 ments of 1985” and inserting instead “303 of the
 9 Medicare Amendments of 1987”.

10 CAPITAL-RELATED COSTS

11 SEC. 304. (a) Section 1886(g)(3) (42 U.S.C.
 12 1395ww(g)(3)) is amended to read as follows:

13 “(3) If the Secretary provides, under subsection (a)(4),
 14 for the inclusion of other capital-related costs in operating
 15 costs of inpatient hospital services, the Secretary shall
 16 provide—

17 “(A) notwithstanding any other provision of this
 18 title, for the continuation of payment under the reason-
 19 able cost methodology described in section 1861(v)(1)
 20 with respect to capital-related costs of any hospital
 21 that is a sole community hospital (as defined in subsec-
 22 tion (d)(5)(C)(ii)) for cost reporting periods beginning
 23 before October 1, 1990, and

24 “(B)(i) that the portion (if any) of payment
 25 amounts for those other capital-related costs that is

1 based on those costs for individual hospitals shall be
 2 based on 88 percent of those costs, and

3 “(ii) that the portion of payment amounts for
 4 those other capital-related costs that is included in
 5 overall amounts paid on a per discharge basis shall be
 6 annually adjusted and otherwise treated as part of
 7 those overall amounts paid on a per discharge basis
 8 (with appropriate further adjustments if the portion
 9 paid under this clause rather than clause (i) is
 10 changed).”.

11 (b) The amendment made by subsection (a) applies to
 12 payments attributable to portions of cost reporting periods
 13 occurring after fiscal year 1989.

14 SKILLED NURSING CARE SERVICES IN SMALL RURAL
 15 HOSPITALS

16 SEC. 305. (a)(1) Section 1883(a)(2)(B)(i) (42 U.S.C.
 17 1395tt(a)(2)(B)(i)) is amended by striking out “(determined
 18 under clause (iii))”.

19 (2) Section 1883(a)(2)(B) (42 U.S.C. 1395tt(a)(2)(B)) is
 20 amended by striking out clause (iii).

21 (b) Section 1883(a)(2)(B)(ii) (42 U.S.C.
 22 1395tt(a)(2)(B)(ii)) is amended—

23 (1) in the matter preceding subclause (I), by strik-
 24 ing out “calendar year” inserting instead “annual
 25 period”,

1 (2) in subclause (I), by striking out “year” and in-
2 serting instead “period”, and

3 (3) in subclause (II), by—

4 (A) inserting “estimated” before “average
5 rate” each place it occurs, and

6 (B) striking out “previous calendar year”
7 each place it occurs and inserting instead
8 “period”.

9 (c) Section 1883(e) (42 U.S.C. 1395tt(e)) is repealed.

10 (d) The amendments made by the preceding subsections
11 apply to services furnished during cost reporting periods be-
12 ginning after 30 days after the date of enactment of this Act.

13 REPEAL OF ALTERNATE AUTHORITY FOR PAYMENTS

14 UNDER STATE HOSPITAL REIMBURSEMENT SYSTEMS

15 SEC. 306. (a) Section 1814(b) (42 U.S.C. 1395f(b)) is
16 amended—

17 (1) in paragraph (1), (A) by striking out “except
18 as provided in paragraph (3),” and (B) by adding “or”
19 at the end,

20 (2) by substituting a period for the semicolon at
21 the end of paragraph (2),

22 (3) by striking out paragraph (3), and

23 (4) by striking out the second sentence.

24 (b) The amendments enacted by subsection (a) apply to
25 admissions occurring after the second month beginning after
26 the date of enactment of this Act.

1 REPEAL OF AUTHORITY FOR CLOSING AND CONVERSION
2 PAYMENTS

3 SEC. 307. Section 1884 (42 U.S.C. 1395uu) is
4 repealed.

5 REDETERMINATION OF ALLOWABLE COSTS NOT TO
6 AFFECT CERTAIN PAYMENTS TO HOSPITALS

7 SEC. 308. Section 1886(d) (42 U.S.C. 1395ww(d)) is
8 amended by adding at the end the following:

9 “(10) No amount determined under this subsection shall
10 be subject to retroactive revision as a result of administrative
11 or judicial review unless the determination was not reasona-
12 ble at the time it was made, in light of information and judi-
13 cial interpretations of the law available at the time of the
14 determination.”.

15 ELIMINATION OF RETURN ON EQUITY FOR PROPRIETARY
16 SKILLED NURSING FACILITIES

17 SEC. 309. (a)(1) Section 1861(v)(1)(B) (42 U.S.C.
18 1395x(v)(1)(B)) is amended to read as follows:

19 “(B) Such regulations in the case of extended care serv-
20 ices shall not include provision for specific recognition of a
21 return on equity capital.”.

22 (2) Section 1878(f)(2) (42 U.S.C. 1395oo(f)(2)) is amend-
23 ed by striking out “of return on equity capital established by
24 regulation pursuant to section 1861(v)(1)(B)” and inserting
25 instead “specified in section 1815(d)”.

1 (3) Section 1881(b)(2)(C) (42 U.S.C. 1395rr(b)(2)(C)) is
2 amended by striking out everything after “capital” but before
3 the period.

4 (b) The amendments made by subsection (a) apply to
5 costs incurred (and interest in relation to civil actions com-
6 menced) after September 1987.

7 BUNDLED PAYMENTS FOR RADIOLOGY, ANESTHESIOLOGY,
8 AND PATHOLOGY PHYSICIANS’ SERVICES

9 SEC. 310. (a) Section 1833(a)(1)(H) (42 U.S.C.
10 1395l(a)(1)(H)) is amended to read as follows: “(H) with re-
11 spect to radiology, anesthesiology, and pathology physicians’
12 services (and with respect to services of a certified registered
13 nurse anesthetist) furnished to an inpatient of a hospital, the
14 amounts paid shall be the amounts determined by the Secre-
15 tary under subsection (m);”.

16 (b) Section 1833(1) (42 U.S.C. 1395l(1)) is amended—

17 (1) by striking out paragraphs (1) through (4) and
18 paragraph (6),

19 (2) by striking out the paragraph designation
20 “(5)”,

21 (3) by redesignating subparagraphs (A) through
22 (C) as paragraphs (1) through (3), and

23 (4) by redesignating clauses (i) and (ii) of para-
24 graph (2) (as redesignated by paragraph (3) of this sub-
25 section) as subparagraphs (A) and (B).

1 (c) Section 1833 (42 U.S.C. 1395l) is further amended
2 by adding at the end the following:

3 “(m) The Secretary shall determine the amounts he
4 shall pay with respect to radiology, anesthesiology, and pa-
5 thology physicians’ services (and with respect to services of a
6 certified registered nurse anesthetist) furnished to an inpa-
7 tient of a hospital (and may vary the amounts to take into
8 account factors such as geographic location, type of hospital,
9 and costs of practice), and shall update the amounts annually.
10 The Secretary shall either require coinsurance equal to 25
11 percent of the amount the Secretary pays, or not require any
12 coinsurance. Payment shall be on a per discharge basis for
13 inpatients of a subsection (d) hospital (as defined in section
14 1886(d)(1)(B)). Payment shall be made to the physician, the
15 hospital, or to some other appropriate entity, as the Secre-
16 tary may specify. The Secretary may also specify the
17 amounts up to which a physician who is not a participating
18 physician (as defined in section 1842(h)(1)) may bill an indi-
19 vidual enrolled under this part for those services. If a physi-
20 cian knowingly and willfully bills for those services in excess
21 of the specified amounts, the Secretary may apply sanctions
22 against the physician in accordance with section 1842(j)(2).”.

23 (d) The matter in the first sentence of section 1842(b)(6)
24 (42 U.S.C. 1395u(b)(6)) preceding clause (A) is amended by
25 inserting “section 1833(m) or” before “section 1870”.

1 (e) Section 1839 (42 U.S.C. 1395r) (as amended by sec-
2 tions 102 and 202 of this Act) is further amended—

3 (1) in subsection (a)(2), by striking out “and (e)”
4 and inserting instead “(e), and (f)”, and

5 (2) by adding at the end the following:

6 “(f) If the Secretary does not require any coinsurance
7 under subsection (m) of section 1833, the premium for each
8 individual enrolled under this part shall be increased by an
9 amount that the Secretary estimates will result in an aggre-
10 gate equal to 20 percent of the Secretary’s payments under
11 that subsection.”.

12 (f)(1) The amendments made by the preceding subsec-
13 tions apply to admissions occurring after, and premiums for
14 months after, June 1988.

15 (2)(A) Section 2312(c) of the Deficit Reduction Act of
16 1984 (42 U.S.C. 1395ww nt) is amended by striking out
17 “and before January 1, 1989” and inserting instead “but
18 shall not apply to services furnished after June 1988 (except
19 as may be specified by the Secretary for admissions that have
20 occurred before that date)”.

21 (B) Section 9320(a) of the Omnibus Reconciliation Act
22 of 1986 (42 U.S.C. 1395ww nt) is amended by striking out
23 the second sentence.

24 (3) Section 9320(i) of the Omnibus Reconciliation Act of
25 1986 (42 U.S.C. 1395k nt) is amended by striking out “serv-

1 ices furnished on or after January 1, 1989” and inserting
 2 instead “admissions occurring after June 1988”.

3 SPECIALTY VARIATION

4 SEC. 311. Section 1842(b) (42 U.S.C. 1385u(b)) is
 5 amended by adding at the end the following:

6 “(13) Services may be treated as dissimilar under the
 7 second sentence of paragraph (3) if furnished by physicians or
 8 other persons whose credentials, training, or experience
 9 differ. The Secretary may prescribe criteria under which such
 10 differences may be recognized and may prescribe limitations
 11 on, or prohibit, differences in payments determined under the
 12 preceding sentence.”.

13 INCREASED FLEXIBILITY IN DETERMINING REASONABLE
 14 CHARGES

15 SEC. 312. (a) Section 1842(b)(8)(A)(i) (42 U.S.C.
 16 1395u(b)(8)(A)(i)) is amended—

17 (1) by striking out “this subsection” and inserting
 18 instead “a prevailing charge”,

19 (2) by striking out “reasonable charge” and in-
 20 serting instead “charge”,

21 (3) by striking out “grossly” each place it occurs,
 22 and

23 (4) by striking out “inherently”.

24 (b) Section 1842(b)(8)(A)(ii) (42 U.S.C.
 25 1395u(b)(8)(A)(ii)) is amended by striking out “that is realis-
 26 tic and equitable”.

1 (c) Section 1842(b)(8)(B)(i) (42 U.S.C. 1395u(b)(8)(B)(i))
2 is amended by striking out “in the reasonable charge other-
3 wise recognized under this section” and inserting instead
4 “under this paragraph in the reasonable charge”.

5 (d) The matter in section 1842(b)(8)(B)(ii) (42 U.S.C.
6 1395u(b)(8)(B)(ii)) preceding subclause (I) is amended by
7 striking out “shall” and inserting instead “may”.

8 (e) Section 1842(b)(8)(B)(iv) (42 U.S.C.
9 1395u(b)(8)(B)(iv)) is amended to read as follows:
10 “(iv) The factors considered under subparagraph (A)(ii)
11 may take into account regional differences in fees.”.

12 (f) Section 1842(b)(8)(B) (42 U.S.C. 1395u(b)(8)(B)) is
13 further amended—

14 (1) by striking out clause (v), and

15 (2) by renumbering clause (vi) as (v).

16 (g) Section 1842(b)(9)(A)(i) (42 U.S.C. 1395u(b)(9)(A)(i))
17 is amended—

18 (1) by striking out “this subsection” and inserting
19 instead “a prevailing charge”,

20 (2) by striking out “reasonable charge” the second
21 place it occurs and inserting instead “charge”,

22 (3) by striking out “grossly” each place it occurs,
23 and

24 (4) by striking out “inherently”.

1 (h) Section 1842(b)(9)(A)(ii) (42 U.S.C.
2 1395u(b)(9)(A)(ii)) is amended by striking out “a reasonable
3 charge that is realistic and equitable” and inserting instead
4 “under paragraph (8) a reasonable charge”.

5 (i) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is further
6 amended by adding at the end the following:

7 “(F) The preceding subparagraphs do not apply to
8 actions taken by carriers.”.

9 BUDGET NEUTRALITY FOR LOCALITY CHANGES

10 SEC. 313. Section 1842(b) (42 U.S.C. 1395u(b)) (as
11 amended by section 311 of this Act) is further amended by
12 adding at the end the following:

13 “(14) Any change in localities under this subsection
14 shall take effect as of the beginning of a calendar year. A
15 prevailing charge level within an area affected by such a
16 change shall be set for the first year so that the total estimat-
17 ed payments to be made under this part for that year for the
18 area for the item or service shall equal in the aggregate what
19 those payments would have been if there had been no such
20 change.”.

21 REDUCTION IN PAYMENTS FOR CATARACT SURGERY

22 SEC. 314. The first sentence of section 1842(b)(11)(B)(i)
23 (42 U.S.C. 1395u(b)(11)(B)(i)) is amended by striking out “2”
24 and inserting instead “15”.

1 CUSTOMARY CHARGES FOR NEW PHYSICIANS

2 SEC. 315. (a) Section 1842(b)(4) (42 U.S.C.
3 1395u(b)(4)) is amended by adding at the end the following:

4 “(F) In determining the customary charges for physi-
5 cians’ services for which adequate data are not available be-
6 cause a physician has not yet been in practice for a sufficient
7 period, the Secretary shall set a customary charge at a level
8 no higher than 80 percent of the prevailing charge (as deter-
9 mined under the third and fourth sentences of paragraph (3))
10 for a service.”.

11 (b) The amendment made by subsection (a) applies to
12 physicians who first enter practice after June 1987.

13 ELIMINATION OF 1975 FLOOR FOR PREVAILING PHYSICIAN
14 CHARGES

15 SEC. 316. Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is
16 amended by striking out the penultimate sentence.

17 LIMITATION ON REASONABLE CHARGE PAYMENT METHOD
18 FOR PHYSICIANS’ SERVICES FOR END STAGE RENAL
19 DISEASE

20 SEC. 317. (a) Section 1881(b)(3) (42 U.S.C.
21 1395rr(b)(3)) is amended to read as follows:

22 “(3) With respect to payments for physicians’ services
23 furnished to individuals determined to have end stage renal
24 disease, the Secretary shall pay—

25 “(A) 80 percent of the amounts calculated for
26 such services on a comprehensive monthly fee or other

1 basis (which effectively encourages the efficient deliv-
 2 ery of dialysis services and provides incentives for the
 3 increased use of home dialysis) for an aggregate of
 4 such services related to dialysis that are provided over
 5 a period of time (as defined and with such exceptions
 6 as provided in regulations), and

7 “(B) for other physicians’ services, as provided
 8 under the other provisions of this title (except that, in
 9 paying on a reasonable charge basis, the Secretary
 10 may make payment on the basis of the prevailing
 11 charges of other physicians for comparable services).”.

12 (b) Section 1881(b)(1)(A) (42 U.S.C. 1395rr(b)(1)(A)) is
 13 amended—

14 (1) by inserting “and” after “transplantation serv-
 15 ices”, and

16 (2) by striking out “routine professional services”
 17 and all that follows.

18 REPEAL OF STATUTORY LEVELS FOR END STAGE RENAL
 19 DISEASE FACILITY PAYMENTS

20 SEC. 318. Section 9335(a)(1) of the Omnibus Budget
 21 Reconciliation Act of 1986 is amended by striking out
 22 “1988” and inserting instead “1987”.

23 ELIMINATION OF SEPARATE PAYMENTS FOR PHYSICIAN
 24 ASSISTANTS

25 SEC. 319. (a) The first sentence of section 1842(b)(6)
 26 (42 U.S.C. 1395u(b)(6)) is amended—

1 (1) by adding “and” at the end of clause (A), and

2 (2) by striking out “and” at the end of clause (B)

3 and all that follows up to the period.

4 (b) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is

5 repealed.

6 (c) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is

7 amended:

8 (1) by adding “and” at the end of subparagraph

9 (I),

10 (2) by substituting a period for “; and” at the end

11 of subparagraph (J), and

12 (3) by striking out subparagraph (K).

13 (d) Section 9338 of the Omnibus Budget Reconciliation

14 Act of 1986 is repealed.

15 DURABLE MEDICAL EQUIPMENT

16 SEC. 320. (a) Section 1889(a) (42 U.S.C. 1395zz(a)) is

17 amended to read as follows:

18 “SEC. 1889. (a) Durable medical equipment (other than
19 inexpensive equipment, or equipment that the Secretary des-
20 ignates as eligible for long-term rental) furnished by a partici-
21 pating provider (as defined in section 1842(h)(1)) shall be pur-
22 chased, on a lump sum or lease-purchase basis.”.

23 (b) Section 1889 (42 U.S.C. 1395zz) is further amended
24 by substituting for subsections (c) and (d) the following:

25 “(c) Purchase of durable medical equipment (other than
26 inexpensive equipment) on a lump sum basis shall be permit-

1 ted only if the expected duration of the medical need for the
2 equipment warrants a presumption that purchase of the
3 equipment would be less costly than purchase on a lease-
4 purchase basis.

5 “(d)(1) If payment for durable medical equipment (other
6 than inexpensive equipment) is made in accordance with a
7 lease-purchase agreement on the basis of an assignment (as
8 described in section 1842(b)(3)(B)(ii)), the total amount that
9 may be paid (including coinsurance) may not exceed the sum
10 of the reasonable charge on a lump sum basis and what
11 would be a fair three month rental charge, and title to the
12 equipment shall pass to the individual if that sum is reached.

13 “(2) If payment is made for durable medical equipment
14 (including inexpensive equipment) other than as provided by
15 paragraph (1), or other than on a rental basis for equipment
16 that the Secretary designates as eligible for long-term rental,
17 the total amount that may be paid under this title may not
18 exceed 80 percent (except as otherwise provided by subsec-
19 tion (b)) of the reasonable charge on a lump sum basis.

20 “(e) If a participating supplier (as defined in section
21 1842(h)(1)) offers for purchase or rental particular durable
22 medical equipment, the supplier shall offer to furnish that
23 equipment (other than inexpensive equipment) to an individ-
24 ual entitled to benefits under this title on a lease-purchase
25 basis if the individual so requests.

1 “(f) If durable medical equipment is rented on the basis
 2 of an assignment (as described in section 1842(b)(3)(B)(ii)),
 3 the beneficiary shall be entitled (as part of the terms under
 4 the assignment) to use of the equipment (without additional
 5 charge to the beneficiary beyond the coinsurance) as long as
 6 the equipment is needed.

7 “(g) For purposes of this section, the term ‘inexpensive
 8 equipment’ means equipment for which the prevailing charge
 9 does not exceed \$120 (for equipment first furnished in 1988),
 10 or does not exceed that amount as may be adjusted by the
 11 Secretary from time to time (for equipment first furnished
 12 after 1988).”.

13 (c) The amendments made by the preceding subsections
 14 apply to equipment first furnished an individual after 1987.

15 TITLE IV—ADMINISTRATIVE PROVISIONS

16 ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR CER-

17 TAIN HOSPITALS THAT HAVE A DISPROPORTIONATE

18 SHARE OF LOW-INCOME PATIENTS

19 SEC. 401. (a) Section 1815(e)(1) (42 U.S.C.
 20 1395g(e)(1)) is amended—

21 (1) by striking out paragraph (B), and

22 (2) by redesignating paragraph (C) as (B).

23 (b) The amendments made by subsection (a) apply to
 24 claims received after fiscal year 1987.

1 INCREASED SECRETARIAL FLEXIBILITY IN ENTERING INTO
2 AGREEMENTS FOR MEDICARE CLAIMS PROCESSING

3 SEC. 402. (a) Section 1816 (42 U.S.C. 1395h) is
4 amended to read as follows:

5 "SEC. 1816. (a) The Secretary may enter into agree-
6 ments with entities (referred to as intermediaries) providing
7 for their determination (subject to the provisions of section
8 1878 and to such review by the Secretary as may be provid-
9 ed for by the agreements) of the amount of the payments
10 required pursuant to this part to be made to providers of
11 services assigned by the Secretary to specific intermediaries,
12 and for the making of such payments by intermediaries to
13 those providers of services. An agreement may also include
14 provision of an intermediary to do all or any part of the fol-
15 lowing: (1) to provide consultative services to institutions or
16 agencies to enable them to establish and maintain fiscal
17 records necessary for purposes of this part and otherwise to
18 qualify as providers of services, and (2) with respect to the
19 providers of services which are to receive payments through
20 it (A) to serve as a center for, and communicate to providers,
21 any information or instructions furnished to it by the Secre-
22 tary, and serve as a channel of communication from providers
23 to the Secretary, (B) to make such audits of the records of
24 providers as may be necessary to insure that proper pay-

1 ments are made under this part, and (C) to perform such
2 other functions as are necessary to carry out this subsection.

3 “(b) The Secretary shall not enter into or renew an
4 agreement with an intermediary under this section unless—

5 “(1) he finds—

6 “(A) after applying the standards, criteria,
7 and procedures developed under subsection (d),
8 that to do so is consistent with the effective and
9 efficient administration of this part, and

10 “(B) that the intermediary is willing and able
11 to assist the providers to which payments are
12 made through it under this part in the application
13 of safeguards against unnecessary utilization of
14 services furnished by them to individuals entitled
15 to hospital insurance benefits under section 226,
16 and the agreement provides for such assistance,
17 and

18 “(2) the intermediary agrees—

19 “(A) to furnish to the Secretary information
20 acquired by it in carrying out its agreements
21 under this section, and

22 “(B) to provide the Secretary with access to
23 all data, information, and claims processing
24 operations,

1 as the Secretary may find necessary in performing his
2 functions under this part.

3 “(c)(1) An agreement with an intermediary under this
4 section may contain such terms and conditions as the Secre-
5 tary finds necessary or appropriate and may provide for ad-
6 vances of funds to the intermediary for the making of pay-
7 ments by it under subsection (a). An agreement with an inter-
8 mediary under this section may be entered into without
9 regard to any provision of law requiring competition.

10 “(2)(A) Each agreement under this section shall provide
11 that payment shall be issued, mailed, or otherwise transmit-
12 ted with respect to not less than 95 percent of all claims
13 submitted under this title—

14 “(i) which are clean claims, and

15 “(ii) for which payment is not made on a periodic
16 interim basis,
17 within 30 calendar days after the date on which the claim is
18 received.

19 “(B) in this paragraph the term ‘clean claim’ means a
20 claim that has no defect or impropriety (including any lack of
21 any required substantiating documentation) or particular cir-
22 cumstance requiring special treatment that prevents timely
23 payment from being made on the claim under this title.

24 “(C) If payment is not issued, mailed, or otherwise
25 transmitted within 30 calendar days after a clean claim (as

1 defined in subparagraph (B)) is received from a hospital,
2 skilled nursing facility, home health agency, or hospice pro-
3 gram that is not receiving payments on a periodic interim
4 payment basis with respect to such services, interest shall be
5 paid at the rate used for purposes of section 3902(a) of title
6 31, United States Code (relating to interest penalties for fail-
7 ure to make prompt payments) for the period beginning on
8 the day after the required payment date and ending on the
9 date on which payment is made.

10 “(d) In order to determine whether the Secretary should
11 enter into, renew, or terminate an agreement under this sec-
12 tion with an intermediary, the Secretary shall develop stand-
13 ards, criteria, and procedures to evaluate intermediaries’
14 overall performance of claims processing and other related
15 functions required to be performed by an intermediary under
16 an agreement entered into under this section; and the Secre-
17 tary shall publish in the Federal Register standards and crite-
18 ria with respect to the efficient and effective administration of
19 this part, and opportunity shall be provided for public com-
20 ment prior to implementation.

21 “(e) An agreement with the Secretary under this section
22 may be terminated—

23 “(1) by the intermediary which entered into the
24 agreement at such time and upon such notice to the

1 Secretary, to the public, and to the providers which it
2 serves as may be specified in regulations, or

3 “(2) by the Secretary at such time and upon such
4 notice to the intermediary, to the providers to which
5 the intermediary provides services, and to the public,
6 as may be specified in regulations.

7 “(f) An agreement with an intermediary under this sec-
8 tion may require any of its officers or employees certifying
9 payments or disbursing funds pursuant to the agreement, or
10 otherwise participating in carrying out the agreement, to give
11 surety or other bond to the United States in such amount as
12 the Secretary may deem appropriate.

13 “(g)(1) No individual designated pursuant to an agree-
14 ment under this section as a certifying officer shall, in the
15 absence of gross negligence or intent to defraud the United
16 States, be liable with respect to any payment certified by him
17 under this section.

18 “(2) No disbursing officer, shall, in the absence of gross
19 negligence or intent to defraud the United States, be liable
20 with respect to any payment by him under this section if it
21 was based upon a voucher signed by a certifying officer des-
22 ignated as provided in paragraph (1) of this subsection.

23 “(3) No intermediary shall be liable to the United States
24 for any payments referred to in paragraph (1) or (2).”.

1 (b)(1) The matter in section 1842(a) (42 U.S.C.
2 1395u(a)) preceding paragraph (1) is amended by striking out
3 “with carriers” and inserting instead “with entities (referred
4 to as carriers)”.

5 (2) Section 1842(f) (42 U.S.C. 1395u(f)) is repealed.

6 (c) Section 1842(b)(5) (42 U.S.C. 1395u(b)(5)) is amend-
7 ed by striking out “and opportunity for hearing”.

8 (d) Section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is
9 amended—

10 (1) in the first sentence, by striking out “, and
11 shall provide for payment of the cost of administration
12 of the carrier, as determined by the Secretary to be
13 necessary and proper for carrying out the functions
14 covered by the contract”, and

15 (2) by striking out the second sentence.

16 (e)(1) Section 1842(c)(2)(A) (42 U.S.C. 1395u(c)(2)(A))
17 is amended, in the matter following clause (ii), by striking out
18 “the applicable number of” and inserting instead “30”.

19 (2) Section 1842(c)(2)(B) (42 U.S.C. 1395u(c)(2)(B)) is
20 amended to read as follows:

21 “(B) In this paragraph the term ‘clean claim’ means a
22 claim that has no defect or impropriety (including any lack of
23 any required substantiating documentation) or particular cir-
24 cumstance requiring special treatment that prevents timely
25 payment from being made on the claim under this part.”.

1 (3) Section 1842(c)(2)(C) (42 U.S.C. 1395u(c)(2)(C)) is
2 amended—

3 (A) by striking out “the applicable number of cal-
4 endar days (as defined in clause (ii) of subparagraph
5 (B))” and inserting instead “30 calendar days”, and

6 (B) by striking out “clause (i) of such subpara-
7 graph” and inserting instead “subparagraph (B)”.

8 (f)(1) Section 402(a)(1)(F) of the Social Security Amend-
9 ments of 1967 (42 U.S.C. 1395b-1(a)(1)(F)) is amended by
10 striking out “or performance incentive contract” and insert-
11 ing instead “, performance incentive, or other kinds of
12 contracts”.

13 (2) Section 402(a) of the Social Security Amendments of
14 1967 (42 U.S.C. 1395-1(a)) is further amended by adding at
15 the end the following:

16 “(3) Contracts may be entered into under paragraph
17 (1)(F) without regard to any provision of law requiring
18 competition.”.

19 (g) Section 2326(a) of the Deficit Reduction Act of 1984
20 (42 U.S.C. 1395h nt) is repealed.

21 (h)(1) The amendments to sections 1816(c)(2) and
22 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2)
23 and 1395u(c)(2)) apply to claims received after September
24 1987.

1 (2) The amendments made by the preceding subsections
2 otherwise apply to agreements or contracts entered into, or
3 renewed, after October 1, 1987.

4 ELIMINATION OF PROFICIENCY TESTING

5 SEC. 403. Section 1123 (42 U.S.C. 1320a-2) is
6 repealed.

7 ELIMINATION OF REQUIREMENT FOR A RAILROAD

8 RETIREMENT BOARD CARRIER CONTRACT

9 SEC. 404. (a) Section 1842(g) (42 U.S.C. 1395u(g)) is
10 repealed.

11 (b) The first sentence of section 1841(i) (42 U.S.C.
12 1395t(i)) is amended by striking out "and section 1842(g)".

13 (c) The amendments made by the preceding subsections
14 are effective one year after the date of enactment of this Act,
15 or at such earlier time as the Secretary of Health and Human
16 Services and the Railroad Retirement Board may agree.

17 IMPLEMENTATION OF PRIMARY PAYER REQUIREMENTS

18 FOR END STAGE RENAL DISEASE

19 SEC. 405. Section 1862(b)(2)(A)(ii) (42 U.S.C.
20 11395y(b)(2)(A)(ii)) is amended to read as follows: "(ii) can
21 reasonably be expected to be made under such a plan."

1 PAYMENTS FOR HOME DIALYSIS SUPPLIES AND EQUIP-
2 MENT TO BE MADE ONLY TO PROVIDERS OF SERVICES
3 AND RENAL DIALYSIS FACILITIES

4 SEC. 406. (a) The first sentence of section 1881(b)(1)
5 (42 U.S.C. 1395rr(b)(1)) (as amended by section 317(b) of
6 this Act) is further amended—

7 (1) by striking out “(A)”,

8 (2) by striking out “and” after “transplantation
9 services,”, and

10 (3) by striking out “(B) payments to or on behalf
11 of such individuals for”.

12 (b) The second sentence of section 1881(b)(1) (42 U.S.C.
13 1395rr(b)(1)) is amended by striking out “subparagraph (A)”
14 and inserting instead “the preceding sentence”.

15 (c) The amendments enacted by the preceding subsec-
16 tions do not apply to individuals who have requested at any
17 time before 180 days after the date of enactment of this Act
18 that payments be made under section 1881(b)(1)(B) of the
19 Social Security Act (42 U.S.C. 1395rr(b)(1)(B)) (as in effect
20 before the date of enactment of this Act) other than to pro-
21 viders of services or to renal dialysis facilities.

22 LIMITATION OF MINIMUM UTILIZATION RATE REQUIREMENT
23 FOR END-STAGE RENAL DISEASE TO TRANSPLANTA-
24 TIONS

25 SEC. 407. The last sentence of section 1881(b)(1) (42
26 U.S.C. 1395rr(b)(1)) is amended by striking out “covered

1 procedures and for self-dialysis training programs” and in-
2 serting instead “transplantations”.

3 SECRETATIAL APPOINTMENT OF MEMBERS OF

4 SUPPLEMENTAL HEALTH INSURANCE PANEL

5 SEC. 408. (a) Section 1882(b)(2)(A) (42 U.S.C.
6 1395ss(b)(2)(A)) is amended—

7 (1) in the second sentence, by striking out “Presi-
8 dent” and inserting instead “Secretary”, and

9 (2) by striking out the last sentence.

10 (b) Members of the Supplemental Health Insurance
11 Panel on the date of enactment of this Act shall continue to
12 serve at the pleasure of the Secretary of Health and Human
13 Services.

14 PROMPT ACCRUAL OF INTEREST ON OVERPAYMENTS OR
15 UNDERPAYMENTS

16 SEC. 409. (a) Sections 1815(d) (42 U.S.C. 1395g(d))
17 and 1833(j) (42 U.S.C. 1395l(j)) are each amended by strik-
18 ing out “final”.

19 (b) The amendments made by subsection (a) apply, in
20 the case of providers of services, to cost reporting periods
21 beginning after the date of enactment of this Act, and, in
22 other cases, to items and services furnished after the date.

1 NO REVIEW BY PROVIDER REIMBURSEMENT REVIEW
2 BOARD OF DIAGNOSIS-RELATED GROUP ASSIGNMENTS
3 OR OF PAYMENTS UNDER STATE COST CONTROL SYS-
4 TEMS

5 SEC. 410. (a) Section 1878(g)(1) (42 U.S.C.
6 1395oo(g)(1)) is amended to read as follows:

7 “(g)(1) The following shall not be reviewed by the
8 Board, or by any court pursuant to an action brought under
9 subsection (f):

10 “(A) the finding of a fiscal intermediary that no
11 payment may be made under this title for any expenses
12 incurred for item or services furnished to an individual
13 because such items or services are listed in section
14 1862, and

15 “(B) determinations (or failures to receive a deter-
16 mination) concerning amounts under section 1886(c).”.

17 (b) Section 1886(d)(7)(B) (42 U.S.C. 1395ww(d)(7)(B))
18 is amended—

19 (1) by striking out “and” after “such groups,”,
20 and

21 (2) by inserting “, and of the assignment of inpa-
22 tient hospital discharges to such groups” before the
23 period.

1 (c) The amendments made by the preceding subsections
2 apply to assignments made, and items and services furnished,
3 before, on, or after the date of enactment of this Act.

4 SAME GRACE PERIOD AFTER A FINDING BY A UTILIZATION
5 REVIEW COMMITTEE AS AFTER A FINDING BY A PEER
6 REVIEW ORGANIZATION

7 SEC. 411. (a) Section 1814(a)(6) (42 U.S.C. 1395f(a)(6))
8 is amended by striking out “4th” and inserting instead
9 “3rd”.

10 (b) The amendment made by subsection (a) applies to
11 items and services furnished after the first month beginning
12 after the date of enactment of this Act.

13 ELIMINATION OF UNNEEDED REPORTING REQUIREMENTS

14 SEC. 412. (a) Section 1875(b) (42 U.S.C. 1395ll(b)) is
15 amended by striking out “a validation of the accreditation
16 process of the Joint Commission on Accreditation of
17 Hospitals,”.

18 (b) Section 1881(c)(6) (42 U.S.C. 1395rr(c)(6)) is
19 amended by striking out the last sentence.

20 (c) Section 1881(g) (42 U.S.C. 1395rr(g)) is repealed.

21 HOSPITAL PATIENTS UNDER THE CARE OF NURSE-
22 MIDWIVES

23 SEC. 413. Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is
24 amended by adding before the semicolon “or nurse-midwife
25 (as defined in section 1905(m)), but only if (in the case of a

1 nurse-midwife) such care is consistent with the policy of the
2 hospital”.

3 REPEAL OF AUTHORIZATION FOR FEDERAL FUNDING OF
4 STATE HEALTH FACILITY CAPITAL EXPENDITURES
5 REVIEW PROGRAMS

6 SEC. 414. Section 1122(c) (42 U.S.C. 1320a-1(c)) is
7 repealed.

8 CONFORMING AMENDMENTS TO REPEAL OF HEALTH
9 PLANNING AUTHORITIES

10 SEC. 415. (a) Section 1121(c) (42 U.S.C. 1320a(c)) is
11 amended by striking out “, including health systems agencies
12 (designated under section 1515 of the Public Health Service
13 Act) and State health planning and development agencies
14 (designated under section 1521 of such Act),”.

15 (b) Section 1122(b) (42 U.S.C. 1320a-1(b)) is
16 amended—

17 (1) in the matter preceding paragraph (1), by
18 striking out “described in clause (ii) of subsection
19 (d)(1)(B)”,

20 (2) by striking out paragraph (2),

21 (3) by renumbering paragraph (3) as (2), and

22 (4) in the matter following paragraph (2) (as so
23 renumbered), by striking out “or any such other
24 agency” and “pursuant to the Public Health Service
25 Act”.

1 (c) Section 1122(d)(1) (42 U.S.C. 1320a-1(d)(1)) is
2 amended—

3 (1) by revising subparagraph (A) to read as
4 follows:

5 “(A) the planning agency designated in the agree-
6 ment described in subsection (b) had not been given
7 notice of any proposed capital expenditure (in accord-
8 ance with such procedure or in such detail as may be
9 required by such agency) at least sixty days prior to
10 obligation for such expenditure; or”,

11 (2) in subparagraph (B)(i), by striking out “or an
12 agency so described”, “or any other agency described
13 in clause (ii)”, and “or in the area for which such other
14 agency has responsibility”, and

15 (3) in subparagraph (B)(ii), by striking out every-
16 thing that follows “subsection (b)” and inserting in-
17 stead the following: “, granted to the person proposing
18 such capital expenditure an opportunity for a fair hear-
19 ing with respect to such findings,”.

20 (d) Section 1160(b)(2) (42 U.S.C. 1320c-9(b)(2)) is
21 amended by striking out “(including health systems agencies
22 and State health planning and development agencies)”.

23 (e) Section 1861(v)(7)(A) (42 U.S.C. 1395x(v)(7)(A)) is
24 amended by striking out “or areawide”.

1 (f) Section 1861(z)(2)(B) (42 U.S.C. 1395x(z)(2)(B)) is
2 amended—

3 (1) by inserting “(if any)” after “submitted to the
4 agency”, and

5 (2) by striking out “, or if no such agency is des-
6 ignated, to the appropriate health planning agency in
7 the State”.

8 (g) Section 1883(b) (42 U.S.C. 1395tt(b)) is amended to
9 read as follows:

10 “(b) The Secretary may not enter into an agreement
11 under this section with any hospital unless, except as provid-
12 ed under subsection (g), the hospital is located in a rural area
13 and has less than 50 beds.”.

14 ELIMINATION OF REQUIRED CAPITAL EXPENDITURES

15 PLAN FOR PROVIDERS OF SERVICES

16 SEC. 416. Section 1861(z) (42 U.S.C. 1395x(z)) is
17 amended—

18 (1) by striking out paragraph (2), and

19 (2) by renumbering paragraphs (3) and (4) as (2)
20 and (3), respectively.

21 TECHNICAL AMENDMENTS

22 SEC. 417. (a) Section 1122(i)(2) (42 U.S.C. 1320a-
23 1(i)(2)) is amended by striking out “the Federal Hospital
24 Council, the National Advisory Health Council, the Health
25 Insurance Benefits Advisory Council, and”.

26 (b) Section 1135 (42 U.S.C. 1320b-5) is amended—

1 (1) by striking out subsections (a) through (c),

2 (2) by striking out the subsection designation

3 “(d)”,

4 (3) by redesignating paragraphs (1) through (6) as
5 subsections (a) through (f),

6 (4) in subsection (d) (as redesignated by paragraph
7 (3) of this subsection), by redesignating subparagraphs
8 (A) through (C) as paragraphs (1) through (3),

9 (5) in the first sentence of subsection (e) (as red-
10 igned by paragraph (3) of this subsection), by redesi-
11 gnating subparagraphs (A) and (B) as paragraphs (1)
12 and (2), respectively,

13 (6) in the second sentence of subsection (e) (as re-
14 designated by paragraph (3) of this subsection), by
15 striking out “subparagraph (B)” and inserting instead
16 “paragraph (2)”,

17 (7) in subparagraph (B) of subsection (f) (as red-
18 igned by paragraph (3) of this subsection), by striking
19 out “subparagraph (A)” and inserting instead “para-
20 graph (1)”, and

21 (8) in subsection (f) (as redesignating by paragraph
22 (3) of this subsection, by redesignated subparagraphs
23 (A) and (B) as paragraphs (1) and (2), respectively.

24 (c) Section 1153(d)(3) (42 U.S.C. 1320c-2(d)(3)) is
25 amended by adding at the end the following: “The Federal

1 Advisory Committee Act shall not apply to a panel appointed
2 under this subsection.”.

3 (d) Section 1154(a)(1)(A) (42 U.S.C. 1320c-3(a)(1)(A))
4 is amended by striking out “such services and items are or
5 were reasonable and medically necessary and whether”.

6 (e) The second sentence of section 1155 (42 U.S.C.
7 1320c-4) is amended by inserting “as is provided in section
8 205(g)” before the period.

9 (f) The first sentence of section 1160(a) (42 U.S.C.
10 1320c-9(a)) is amended—

11 (1) by striking out “section 552” and inserting in-
12 stead “section 552 and 552a” and

13 (2) by inserting “and the Privacy Act” after
14 “Freedom of Information Act”.

15 (g) Section 1160(b)(1)(C) (42 U.S.C. 1320c-9(b)(1)(C))
16 is amended—

17 (1) by inserting “Federal and” before “State” the
18 first place it occurs, and

19 (2) by inserting “Federal or” before “State” the
20 second place it occurs.

21 (h) Section 1160(c) (42 U.S.C. 1320c-9(c)) is amended
22 by striking out “and imprisoned” and inserting instead “or
23 imprisoned”.

24 (i)(1) Section 1811 (42 U.S.C. 1395c) is amended—

1 (A) in the matter preceding clause (1), by insert-
2 ing “services” after “hospital” and “post-hospital”,

3 (B) by striking out “and” at the end of clause (2)
4 and

5 (C) by inserting before the period the following: “,
6 and (4) certain individuals who are age 65 or over and
7 enroll in the program under section 1818”.

8 (2) Subsections (d), (f), and (h) of section 1814 (42
9 U.S.C. 1395f) and section 1816(b)(1)(B)) (42 U.S.C.
10 1395h(b)(1)(B)) are each amended by striking out “section
11 226” each place it occurs and inserting instead “this part”.

12 (j)(1) Section 1815(b) (42 U.S.C. 1395g(b)) is repealed.

13 (2) Section 1861(w) (42 U.S.C. 1395x(w)) is amended—

14 (A) by striking out paragraph (2), and

15 (B) by striking out the paragraph designation
16 “(1)”.

17 (k) Sections 1818(c)(5) (42 U.S.C. 1395i-2(c)(5)) and
18 1869(b)(1)(A) (42 U.S.C. 1395ff(b)(1)(A)) are each amended
19 by inserting “or 226A” after “226”.

20 (l) Section 1833(b)(3) (42 U.S.C. 1395l(b)(3)) is
21 amended—

22 (1) by striking out “(A)”,

23 (2) by striking out “or” before “to a provider”,

24 and

1 (3) by striking out “(B)” before “on the basis of a
2 negotiated rate”.

3 (m) Section 1835(d) (42 U.S.C. 1395n(d)) is amended by
4 striking out “a provider of services” and inserting instead
5 “one”.

6 (n) Section 1842(d) (42 U.S.C. 1395u(d)) is amended by
7 inserting “or other” after “surety”.

8 (o) The first sentence of section 1843(e) (42 U.S.C.
9 1395v(e)) is amended—

10 (1) by striking out “general”, and

11 (2) by striking out “1837(c)” and inserting instead
12 “1837(d)”.

13 (p) Section 1861(e)(5) (42 U.S.C. 1395x(e)(5)) is amend-
14 ed by striking out “except that until January 1, 1979,” and
15 all that follows.

16 (q) The first sentence of section 1861(v)(1)(I) (42 U.S.C.
17 1395x(v)(1)(I)) is amended—

18 (1) in the matter preceding clause (i), by striking
19 out “subcontractors” and inserting instead “contrac-
20 tors”, and

21 (2) in clauses (i) and (ii), by striking out “subcon-
22 tractor” each place it occurs and inserting instead
23 “contractor”.

1 (r) The penultimate sentence of section 1861(p) (42
2 U.S.C. 1395x(p)) is amended by striking out “extended care”
3 and inserting instead “skilled nursing”.

4 (s) Section 1861(v)(1)(O)(i) (42 U.S.C. 1395x(v)(1)(O)(i))
5 is amended by striking out “the date of enactment of this
6 subparagraph” and inserting instead “July 18, 1984”.

7 (t) Paragraphs (2)(A) and (3) of section 1861(v) (42
8 U.S.C. 1395x(v)) are each amended by striking out “inpa-
9 tient tuberculosis hospital services and”.

10 (u) Section 1862(b)(3)(A)(iv) (42 U.S.C.
11 1395y(b)(3)(A)(iv)) is amended by striking out “162(i)(2)” and
12 inserting instead “162(i)(3)”.

13 (v) Section 1872 (42 U.S.C. 1395ii) is amended by in-
14 serting “(other than the fifth and sixth sentences)” after
15 “206”.

16 (w) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is
17 amended by striking out “, pursuant to sections 1814(b) and
18 1833(a),” and inserting instead “under this title”.

19 (x)(1) Section 1878(c) (42 U.S.C. 1395oo(c)) is amended
20 by adding at the end the following: “The Board may remand
21 a case for further consideration.”.

22 (2) The first sentence of section 1878(f)(1) (42 U.S.C.
23 1395(f)(1)) is amended by inserting “or remands the case to
24 the Board for further consideration” before the period.

1 (3) The second sentence of section 1878(f)(1), (42
2 U.S.C. 1395oo(f)(1)) is amended by striking out everything
3 after “notice of any” and adding instead “reversal, affirm-
4 ance, or modification by the Secretary is due to be received
5 or, if earlier, is received.”.

6 (4) The last sentence of section 1878(h) (42 U.S.C.
7 1395oo(h)) is amended by inserting “(except for persons ap-
8 pointed to fill an unexpired term)” after “three years”.

9 (y)(1) The first sentence of section 1881(c)(3) (42 U.S.C.
10 1395rr(c)(3)) is amended by striking out “certification” and
11 inserting instead “approval”.

12 (2) Section 1881(c)(4) (42 U.S.C. 1395r(c)(4)) is amend-
13 ed by striking out “certify” and inserting instead “approve”.

14 (z) Section 1881(f)(8) (42 U.S.C. 1395rr(f)(8)) is
15 repealed.

16 (aa) Section 1882(h) (42 U.S.C. 1395ss(h)) is amended
17 by striking out the second sentence.

18 (bb) Section 1886(g) (42 U.S.C. 1395ww(g)) is
19 amended—

20 (1) by striking out paragraph (1), and

21 (2) by renumbering paragraph (2) and (3) as (1)
22 and (2), respectively.

23 (cc)(1) Section 1886(h)(5)(A) (42 U.S.C.
24 1395ww(h)(5)(A)) is amended by striking out everything after

1 “means” and inserting instead “a program specified in sec-
2 tion 1861(b)(6)”.

3 (2) Section 1861(b)(6) (42 U.S.C. 1395x(b)(6)) is amend-
4 ed by inserting “, or under a formal postgraduate training
5 program in geriatric medicine approved by the Secretary”
6 before the semicolon.

7 (dd) Section 1887(a)(2) (42 U.S.C. 1395xx(a)(2)) is
8 amended—

9 (1) in subparagraph (A), by striking out “appor-
10 tioned” and inserting instead “allocated”, and

11 (2) in subparagraph (B), by striking out “appor-
12 tioning” and inserting instead “allocating”.

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